



Federation of  
Community Legal Centres  
VICTORIA

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# Justice Policy



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## Introduction

The Federation of Community Legal Centres (Vic) Inc is the peak body for 49 Community Legal Centres across Victoria.

Community Legal Centres provide free legal advice, information, assistance, representation and community legal education to more than 100,000 Victorians each year. We also work on strategic research, casework, policy development and social and law reform activities.

The day-to-day work of Community Legal Centres reflects a 30-year commitment to social justice, human rights, equity, democracy and community participation.

## Our Strategic Vision

The Federation's Strategic Vision is: Achieving social justice through leading law reform, policy and advocacy.

## Our Values

The Federation's Values are: Inclusive, Collaborative, Proactive, Equitable and Accountable.

## Community Knowledge, Experience & Justice Policy

Community Legal Centres have expertise in working with excluded and disadvantaged communities and people from culturally and linguistically diverse backgrounds.

We operate within a community development framework. We provide a bridge between disadvantaged and marginalised communities and the justice system. We work with the communities of which we are a part.

We listen, we learn, and we provide the infrastructure necessary for our communities' knowledge and experiences to be heard.

The diversity of our communities highlights the breadth of justice related issues facing Victorians today.

## Our Strengths

Community Legal Centres are unique in the way we work with communities to address justice issues. These unique characteristics include:

- Driven and controlled by the communities we work with.
- Collaboration and partnerships with other community organisations.
- Harnessing of volunteer and pro bono potential.
- Can operate in a broad range of legal areas.
- Addresses legal and non-legal needs and takes a multi-disciplinary approach.
- Utilises outreach, home visits and other service delivery models.
- Looks to broader advocacy and not just strictly legal advocacy.
- Attacks systemic issues by not only working with individuals but also by community legal education, policy and program development and law reform.
- Ensures that the full diversity of our communities are considered.

## Working together to make a difference

The Federation, as a peak body, facilitates collaboration across a diverse membership. Workers and volunteers throughout Victoria come together through working groups and other formal and informal networks to exchange ideas and strategise for change.

We work in alliances – locally, interstate, nationally and internationally. We welcome partnerships for the development of future justice policy.

# Justice Policy Positions

Community Legal Centres have been working for more than 30 years to advance human rights and social justice. The following Policy Positions provide a snapshot of the diversity of the Federation's policy work and an insight into the relevance of social justice and human rights for our communities.

This document does not purport to cover everything there is to say about Justice Policy, nor have we included everything that the Federation or member centres have ever worked on. There are bound to be gaps.

This is a living, breathing document that will evolve as member centres develop and adopt future policy through our democratic processes.

Over 200 Law Reform submissions and Justice Policies that have contributed to this document can be downloaded from the Federation's website ([www.communitylaw.org.au/cb\\_pages/law\\_reform.php](http://www.communitylaw.org.au/cb_pages/law_reform.php)).

## Aboriginal and Torres Strait Islander Justice

### **The Federation supports:**

- calls for the federal and state governments to commence the process of developing a fair and just settlement of the grievances between Aboriginal and Torres Strait Islander and non-Aboriginal and Torres Strait Islander Australians, culminating in formal Treaties between our peoples.
- the inclusion of the principles contained in United Nations Declaration on the Rights of Indigenous Peoples in all aspects of government law and policy making with respect to Aboriginal and Torres Strait Islander peoples.
- processes that ensure meaningful engagement with and participation of Aboriginal and Torres Strait Islander peoples with respect to laws and policies that engage their rights.
- the adoption of a comprehensive national mechanism to ensure that adequate reparation, including compensation, is provided to the victims of Stolen Generations policies and practices.
- recognition of the right to self-determination under the *Victorian Charter of Human Rights and Responsibilities Act 2006 (Vic)*.
- constitutional reform to remove discriminatory aspects of Australia's constitution and to protect the rights of Aboriginal and Torres Strait Islander peoples.
- implementation and ongoing monitoring of the recommendations of the Royal Commission into Aboriginal Deaths in Custody and the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs *Doing Time – Time for Doing: Indigenous Youth in the Criminal Justice System* report.
- the critical role played by Aboriginal and Torres Strait Islander specialist legal services in ensuring access to justice for those communities.
- increased funding of Aboriginal and Torres Strait Islander legal services and family violence prevention legal services, to achieve parity with mainstream legal aid.
- the provision of culturally safe services for Aboriginal and Torres Strait Islander clients within mainstream services.

## Access to Justice

### **The Federation supports:**

- the strengthening and modernisation of community legal centre infrastructure as a resource for building stronger communities.
- innovations in community legal centre service delivery to expand services to disadvantaged Victorians including Culturally and Linguistically Diverse (CALD) communities, refugee and newly arrived communities, rural and regional communities, women experiencing family violence, prisoners, people with disabilities and older persons.

- strengthening of community legal centre capacity to continue to develop appropriate and accessible legal information tools for disadvantaged communities.
- the greater provision of legal aid resources across all areas of law including civil, criminal and administrative law.
- maintaining and expanding access to financial counselling and consumer legal services for Victorians with the transfer of responsibility for consumer and consumer credit laws to the Commonwealth.
- the amendment of the *Wrongs Act 1985 (Vic)* to enable all people who sustain physical or psychiatric injury as a result of another party's negligence to sue for damages at common law, without legislative limitations on the quantum of damages recoverable.
- reforms to laws regarding the jurisdiction for bringing legal actions against individuals as consumers or debtors, including the *Service and Execution of Process Act 1992 (Cth)*, to ensure that legal actions against individuals are brought in the jurisdiction most appropriate to them, for example the jurisdiction in which they live or in which the contract was signed, and to ensure that legal actions commenced interstate can be easily stayed and moved to the more appropriate jurisdiction at no cost to the individual.

## Anti-Terrorism Laws

### The Federation

- calls for independent research into the criminal justice system's ability to meet the threat of terrorism without specific legislation, and the containment of enforcement authorities' powers to question, investigate or prosecute so-called terrorism offences until such research has been conducted.
- calls for the guarantee of the rule of law and fundamental civil liberties (including the right to demonstrate, to critique government, to a fair trial, to equality before the law, to freedom from arbitrary detention, to remain silent when questioned by police, the presumption of innocence and to freedom of association and membership of organisations of choice) despite the threat of terrorism.
- opposes the introduction of procedures to the civil law system intended to overcome the threat of terrorism that will reduce the operation of open and accountable administration of justice, breach the fundamental principle of the separation of powers and limit access to civil compensation.
- supports adherence to Australia's international obligations under the *International Covenant on Civil and Political Rights* relating to freedom of association (Article 22), and specifically the abolition of the power to list organisations as "terrorist organisations" under the *Criminal Code Act 1995 (Cth)* and *Criminal Code Regulations (2002)*.
- opposes the expanded power of the Australian Defence Force to intervene in civilian disputes in Australia.
- opposes the state government's regime of detention of non-suspects without charge (preventative detention).
- opposes special extended powers being given to Victoria Police to deal with the threat of terrorism beyond powers already given by the criminal law system, in particular opposition to the power to conduct covert searches.

## Child Protection

### The Federation supports:

- a rights-based approach to child protection, in a manner consistent with the principles articulated in the *Convention on the Rights of the Child*, including the importance of family (Article 9), the importance of cultural links (Article 20(3)), the importance of the views of the child being taken into account (Article 12) and the need to protect children from harm and abuse (Article 19).
- the emphasis in Victoria's child protection system on the best interests of the child as the paramount consideration in decision-making.

- significant increased resources for the child protection system, including for support services for vulnerable families and parents with disabilities.
- a systemic and legislative guarantee that reunification with family will be a priority.
- calls for the child protection system to respond appropriately to the protection needs of young people aged 15 to 25 years, including the needs of young people leaving care.
- legislative measures that take into account the particular needs of Aboriginal and Torres Strait Islander (ATSI) children in the child protection system, in particular the involvement of ATSI agencies in decision making about ATSI children and principles prioritising ATSI family placements for ATSI children in out of home care.
- expanded resources to ensure that advocacy services are available at the first point of contact with child protection services, focusing on specialist advocacy for vulnerable groups.
- an end to discrimination against families dealing with the child protection system on the grounds of factors of disadvantage such as disability and cultural and linguistic diversity.
- independent evaluation of the impact of changes to the child protection system upon vulnerable groups including parents with disabilities and Aboriginal and Torres Strait Islander families.

## Child Support

### **The Federation supports:**

- changes to the child support scheme that are enacted after broad consultation with the community and that improve the financial position of the home in which children primarily reside.
- a child support scheme that is calculated on all of the costs of raising children.
- child support payments meeting the actual costs of raising children
- adequate resourcing of the Child Support Agency to permit it to take all steps necessary to enforce correctly calculated arrears of child support; with the goal of reducing the Gross Child Support debt owed to the Commonwealth by at least 10% per year.
- the creation and adoption of policy by the Child Support Agency to consider the impact of family violence on the ability and willingness of parents to apply for child support and to seek changes to child support.
- the enactment of legislation and policy to require the Child Support Agency to advise their clients to seek legal advice before:
  - registering a child support agreement with the Child Support Agency made privately or through a Family Relationship Centre;
  - electing to privately collect ongoing child support under an assessment or agreement; and
  - electing to privately collect child support arrears under an assessment or agreement.
- improved access to specialist legal advocacy, information and support for parents negotiating the child support system through expansion of the child support advocacy program in community legal centres.

## Children & Young People

### **The Federation supports:**

- increased adherence to the fundamental rights and freedoms contained in the *Convention on the Rights of the Child*.
- the establishment of permanent Federal and Victorian Children and Young People's Commissions, independent of government, to ensure that the rights and wellbeing of children and young people are protected and promoted.
- independent representation of children and young people affected by legal proceedings in a manner consistent with the evolving capacity of the child, to ensure their opinion is taken into account by the courts.
- preventative policy and education programs targeted to ensure that children and young people understand their legal rights and have the supports to exercise them.

- the meaningful participation of children and young people in decision-making across all levels of government and in the non-government sector.
- reinstatement of a Federal Parliamentary Secretary for Children and Youth Affairs.

## Citizenship

### **The Federation supports:**

- procedures for procuring citizenship which embrace cultural, linguistic and religious diversity and are not discriminatory in effect. The application process should ensure that applicants from non-English speaking backgrounds are not disadvantaged, and special provision should be made for categories of persons who would face particular difficulty in their applications such as applicants with a cognitive impairment, elderly applicants, and applicants who have been granted asylum in Australia.
- the removal of any provisions in electoral law which impair the right of all citizens to vote, including those still affected by discriminatory provisions in the *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006* (Cth) including young people and citizens residing overseas.
- protection of the privacy rights of Australians if a form of national “Access Card” or identity card is introduced, through mechanisms that ensure there is no capacity for information sharing or cross-matching of data across government departments, through a legislative guarantee that information to be held in the register database (including photographs) will not be used for public surveillance or policing purposes, and through the use of appropriate technology to keep information secure.

## Civil Justice

### **The Federation supports:**

- the protection of the fundamental rights and freedoms contained in the *International Covenant on Civil and Political Rights*, including in the determination of rights and obligations in a suit of law the right to a fair and public hearing by a competent, independent and impartial tribunal (Article 14(1)).
- the use of alternative dispute resolution for reasons other than cost effectiveness, where adequate independent legal advice is available and where it is appropriate.
- calls for alternative dispute resolution not to be used compulsorily in cases where there is a power imbalance between parties.
- a stop to ongoing harassment from creditors, including through enforcement action by regulators, against persons who are unable to afford repayments towards alleged debts and are judgment-proof, that is, persons whose sole source of income is a social security benefit and who own no assets other than ordinary household items.
- the introduction of a general prohibition against unfair trading conduct or unfair commercial practices, including practices that target low-income or disadvantaged consumers.
- the introduction of powers for relevant regulators to undertake market studies where there are concerns that a market is not working well, including powers to require the provision of information for the purposes of undertaking such studies and a mechanism for public interest groups to make ‘super complaints’ about market problems, that the regulators are required to consider.
- a 12 month moratorium on any debt related complaint, when a debtor’s only assets/income are a Centrelink benefit, and there is no possibility that the debtor might service any judgment debt.

## Consumer Credit

### **The Federation supports:**

- responsible lending laws that promote responsible and fair conduct across the entire lending transaction cycle, including product design, marketing, selling, credit assessment, ongoing account management and dealing with customers in financial hardship.

- a ban on inherently irresponsible and exploitative lending practices such as payday lending, through a comprehensive interest rate cap including both interest and fees, that is properly monitored and enforced.
- a ban on using credit reporting information for marketing or pre-screening purposes, and appropriate limitations on the information that may be held on an individual's credit report.
- the development and expansion of not for profit community 'No Interest Loan Schemes' with government support.
- adequate resourcing of the regulator in order to monitor compliance with national consumer credit laws and pursue enforcement of consumer credit obligations and penalties for breaches.
- leadership by the Australian Securities and Investments Commission in developing collaborative strategies aimed at increasing consumer awareness and financial literacy, in particular with disadvantaged and vulnerable communities.

## Coronial Inquiries

### **The Federation supports:**

- the expansion of legal aid guidelines and the establishment of a specific pool of funds to enable community legal centres to provide legal representation at inquests for families and other interested parties including organisations and individuals acting in a representative capacity.
- the expansion of the current definitions of "reportable deaths" and deaths "in care" and "in custody" in the *Coroners Act 2008 (Vic)* to ensure that the deaths of vulnerable persons in a very broad range of circumstances are required to come to the attention of the Coroner.
- reforms to the *Coroners Act 2008 (Vic)* to expand the preventative potential of the coronial process by requiring all coroners to make recommendations, and by creating mechanisms to give the Coroner powers to monitor the implementation of recommendations.
- reforms to the *Coroners Act 2008 (Vic)* to provide family members with the opportunity for greater involvement in the process, including greater access to information and the right to be kept informed about decision-making processes.
- the development of Coronial Guidelines, consistent with best practice approaches, to cover such procedural matters as the conduct of inquiries into deaths in custody, what to include in judgments and recommendations, and receiving evidence.

## Courts

### **The Federation supports:**

- protecting fundamental principles of the rule of law including the independence of the judiciary.
- ensuring that all courts are accessible to disadvantaged and public interest litigants. This includes waiving court fees for people facing financial hardship and a quick and simple waiver application process.
- codified judicial powers to protect meritorious public interest litigation from adverse costs orders.
- anti-SLAPP (strategic litigation against public participation) writ legislation that protects public interest activities and communications from litigation intended to silence it.
- legislation enabling recovery of litigation costs by parties represented on a pro bono basis.
- the widening of the net for prospective jurors including removing discriminatory exclusion provisions in juries legislation.
- appropriate judicial training in line with court specialisation.
- reforms to the Magistrates' Court to ensure that it is a forum for the resolution of legitimate legal grievances and not used disproportionately for undefended debt collection actions.
- ensuring that courts promote fairness in disputes between repeat litigants and one-off litigants.
- providing funded interpreters and translators in all court matters including civil matters.
- the provision of support liaison officers at court to ensure that people are able to navigate the court system.
- funding for appropriately trained interpreters and translators in civil matters, particularly for parties who have little understanding of the English language or Australian legal concepts.

## Criminal Justice

### The Federation supports:

- the protection of the fundamental rights and freedoms contained in the *International Covenant on Civil and Political Rights*, including the right to a fair trial, to be presumed innocent until proven guilty, to not be compelled to testify against oneself or to confess guilt, and to appeal against conviction and sentence to a higher tribunal (Article 14).
- the tackling of the underlying causes of crime that result in the overrepresentation in the criminal justice system of Aboriginal and Torres Strait Islander people, young people and people with a psychiatric or other disability.
- the expansion of crime prevention, rehabilitation and recidivism prevention programs rather than measures that would result in increased penalties and imprisonment rates or further stigmatisation of offenders who have completed their sentence.
- the need for prosecuting authorities and courts at all levels to recognize and respond appropriately to the needs of offenders with a psychiatric disability, through treatment and support options rather than imprisonment or other unrealistic penalties.
- the enhancement and expansion of diversion options so that they are available to a wide range of disadvantaged and marginalised groups. This expansion should include the introduction of discretion for courts to dismiss charges in appropriate cases without a finding of guilt or prosecution consent.
- the court's full discretion in every case in relation to the most appropriate sentence, after taking into account all relevant circumstances.
- concerns that home detention is an unsuitable sentencing option.
- the regulation of the disclosure, expiration and use of criminal records and convictions, including the establishment of a spent convictions scheme, to reduce the stigma attached to criminal records.
- shifting the community's response to drug and alcohol abuse and psychiatric and other disabilities out of the criminal justice system to the health and social systems.
- reforms to the *Bail Act 1977* (Vic) that improve compliance with fundamental rights and freedoms contained in the *International Covenant on Civil and Political Rights* and address the inequitable impacts of the bail system on the disadvantaged and vulnerable accused.
- reforms to the *Bail Act 1977* (Vic) and Victoria Police procedures to ensure that bail conditions are used sparingly to ensure attendance in court and not to interfere with the daily life of an accused implementation of the Victorian Law Reform Commission's recommendations, to remove provisions in the *Bail Act 1977* (Vic) regarding the refusal of and/or conditions of bail, where these provisions indirectly discriminate against disadvantaged, vulnerable and Aboriginal and Torres Strait Islander accused (for reasons including the lack of a single fixed address or employment, and limited capacity for a surety).
- implementation of the Victorian Law Reform Commission's recommendation to provide courts with the power to remand young people aged 18 to 21 years to Youth Training Centres.
- the decriminalisation of behaviours that have a disproportionate effect on disadvantaged, vulnerable and Aboriginal and Torres Strait Islander communities, including public drunkenness.
- the retention of suspended sentences as a sentencing option under the *Sentencing Act 1991* (Vic).
- courts being able to attach conditions to suspended sentence orders only where they are intended to address a therapeutic need of the offender and to achieve rehabilitative outcomes. Special conditions should not be imposed as a means of punishment in addition to the suspended sentence and should not impose additional and unrealistic burdens that defendants are unable to achieve. Conditions should not impose obligations to treatment already or more appropriately obliged under the *Mental Health Act 1986* (Vic).
- the significant expansion of additional resources for support services and supervision, to ensure that all offenders, including those with special needs, have sufficient opportunity to comply with the conditions of court imposed orders. Supports need to be culturally specific and tailored to the needs of young offenders and those with specific health needs or a disability. Support services and agencies supervising conditional orders also need to be adequately resourced to fulfil their roles.

- ongoing education of court support staff and magistrates on recognising disability and support services available to people with disabilities.
- strategies that educate the media and the community about the place of suspended sentences in the sentencing hierarchy, in order that there is a greater community understanding of their important role.
- reforms to the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* (Vic) to eliminate discrimination against forensic patients including to introduce finite terms for supervision orders.
- opposition to a system of post-sentence supervision and detention in Victoria that would see offenders punished for what they might do rather than what they have done.

## Defamation Law

### **The Federation supports:**

- the enactment of state legislation to protect individuals and groups from defamation actions that are aimed at silencing debate about matters of public interest, political debate and dissent.

## Discrimination Against Same Sex Couples

### **The Federation supports:**

- amendments to the *Marriage Act 1961* (Cth) to include marriage between two people of the same sex, repealing the 2004 Amendment which legally enshrined marriage as being between a man and a woman “to the exclusion of all others” s5(1).
- the principle that at all times, the best interests of the child must be paramount and central to all policy development and law reform in Victoria, particularly in relation to access to Assisted Reproductive Technology, adoption, surrogacy and recognition of diverse families.

## Employment Law

### **The Federation supports:**

- the protection of fundamental rights and freedoms contained in Articles 6 and 7 of the *International Covenant on Economic, Social and Cultural Rights* and International Labour Organisation Conventions.
- adequately funded, accessible, free, specialist employment law services.
- the protection of systems of collective bargaining between employers and employees.
- fair and comprehensive minimum terms and conditions of employment.
- the scrutiny of collective agreements by an independent umpire.
- an independent umpire to determine termination matters.
- the strengthening of legal mechanisms to ensure workers are not forced to work in dangerous conditions.
- adequate legal protection for all employees against unfair, harsh, unjust or unreasonable termination of employment.
- legislative protection for worker privacy.
- the right of workers to obtain flexible working arrangements to accommodate their family/carer responsibilities.
- adequate protection against workplace bullying and the right of individuals to take legal action on their own behalf.
- the right of workers with a disability to obtain adjustments in the workplace to accommodate their disability.
- protection in employment against discrimination due to an irrelevant criminal record.

## Environment

### The Federation supports

- A legal system that recognises and achieves environmental justice – protecting the environment in order to secure social justice.
- A legal system that delivers on the human right to a clean and healthy environment, including clean water and sufficient food.
- Laws and policies which are consistent with the Principles of Ecologically Sustainable Development – including the principle of equity between present and future generations.
- Laws that guarantee sustainable development – including laws that assess the environmental impacts of new developments, and prevent development proceeding in an unsustainable way.
- Effective state and federal laws that arrest the rapid extinction of threatened species of flora and fauna, and protect our irreplaceable biodiversity – including effective laws to protect Victoria’s forests.
- A legal system that conserves our scarce water resources, and protects the communities and ecosystems that depend on clean and healthy rivers.
- In recognition of the threat that climate change poses to our environment, our economy, and our society (including many of the most poor and vulnerable people) a coordinated and comprehensive set of state and federal laws that mitigate climate change and adapt to its unavoidable impacts – including a price on carbon pollution.
- Effective laws that protect the environment and the community from the social, cultural and economic damage caused by environmental degradation, including an effective Environment Protection Act 1970 (Vic) that prevents harmful pollution.
- Recognition via accessible remedies that the social, cultural and economic damage caused by environmental degradation impacts most severely on communities that are already marginalized and disadvantaged.
- A planning law framework that guarantees development is ecologically sustainable, and ensures decisions are made transparently with input from the community.
- Planning and environment laws that give members of the community a real say in how decisions affecting their environment are made, and which ensure that those decisions are public and transparent.
- A legal system that supports the rights of third parties to bring litigation in the public interest – including open standing to review decisions and enforce the law, and a costs regime that does not penalise or deter public interest cases.

## Family Law

### The Federation supports:

- calls for the Family Law System to be consistent with Australia’s human rights obligations under *the Convention on Elimination of Discrimination against Women*, the Beijing Platform of Action, the *Convention on the Rights of the Child* and other international human rights agreements.
- the right of children and their family members to live free from violence and abuse. This right must have priority over requirements to ensure children spend time with both of their parents and the perceived right of parents to spend time with children.
- the *Family Law Act 1975* (Cth) enshrining the best interests of the child being the paramount consideration in decision making about who children live with, spend time with and communicate with. The primacy of the best interests of the child should not be derogated from by requiring particular types of parenting arrangements, namely equal time or substantial and significant time arrangements, to be considered over and above other parenting arrangements.
- the application of non-litigious dispute resolution mechanisms as long as these are not compulsory and do not compound existing power imbalances or family violence issues.
- access to legal advice and representation in family law matters for all women experiencing family violence.

## Family Violence

### **The Federation supports:**

- work by government and community agencies towards providing a coordinated and integrated justice system response to family violence across government and community. This requires a collaborative approach to policy and protocol development working from a basis of shared principles and mechanisms for ongoing monitoring and review of systemic responses, and structures to create system change.
- the justice system adopting a variety of processes to create a more flexible system that is better equipped to deal with more complex and diverse range of behaviours and that is accessible to diverse communities.
- the allocation of significant new and ongoing resources to family violence prevention and support programs, in particular for community legal centres to consolidate and expand the family violence lawyers network.
- reforms to the family violence system that educate the community and can send a clear message that family violence is not acceptable in our community. We do not believe that increased rates of imprisonment of perpetrators or increased penalties imposed by the criminal justice system will achieve this.
- the monitoring of recent changes to laws about the partial defence of provocation, the defence of self-defence and the admission of domestic violence history and social framework evidence as evidence in criminal trials, to ensure that women who kill their violent partners to protect themselves benefit from the changes and can use self-defence.
- a comprehensive and ongoing education strategy in collaboration with communities and community leaders promoting both awareness and prevention of domestic violence.
- increased funding to refuges, safe houses and other community organisations that assist people escaping family violence.

## Housing & Tenancy

### **The Federation supports:**

- increased adherence to Article 11 of the *International Covenant on Economic, Social and Cultural Rights* in relation to adequate standards of living.
- state regulation of minimum standards for rental accommodation.
- the introduction of the independent merits review of public housing decisions by VCAT through its administrative law list.
- access to full tenancy rights and adequate complaints processes for all rented housing including residents in supported residential services, community residential units, rooming houses, caravan parks and crisis accommodation.

## Human Rights & Discrimination Protection

### **The Federation supports:**

- an entrenched Bill or Charter of Rights at both state and federal levels to protect human rights and give expression to all major international human rights conventions.
- the removal of all reservations to international human rights conventions and the ratification of all optional protocols
- the preservation of the Australian Human Rights Commission as an independent and effective advocate for human rights.
- a comprehensive and ongoing education strategy in collaboration with communities and community leaders promoting human rights.
- the preservation of human rights principles in all instances, except if there is a declared State of Emergency in keeping with Article 4 of the *International Covenant on Civil and Political Rights*.

- Amendment to the *Charter of Human Rights and Responsibilities Act 2006* (Vic), to confer an individual right of remedy for human rights breaches, that may result in damages, compensation and other remedies such as apologies.
- increased adherence to Article 2 of the *International Covenant on Economic, Social and Cultural Rights* and the *International Covenant on Civil and Political Rights* in relation to the non-discriminatory exercise of rights.
- the amendment of the *Equal Opportunity Act 1995* (Vic) to repeal statutory exemptions other than those that are positive and in line with affirmative action.
- the *Equal Opportunity Act 1995* (Vic) providing the Victorian Equal Opportunity & Human Rights Commission with the powers, functions and resources necessary to investigate and resolve complaints about human rights contained in international instruments.
- the *Equal Opportunity Act 1995* (Vic) allowing for representative complaints to be lodged with the Victorian Equal Opportunity & Human Rights Commission, to assist marginalised communities and people sensitive to personal victimisation.
- the *Equal Opportunity Act 1995* (Vic) providing for the Commissioner's "own motion investigation" for systemic discrimination without the need for the Attorney-General's consent where there is evidence to suggest that a particular group of people is being discriminated against and where people are reluctant to lodge an individual complaint.
- the waiver of fees and costs in relation to human rights and discrimination cases at the Federal Court and the Victorian Civil and Administrative Appeals Tribunal.
- the prohibition of discrimination on the basis of a person's criminal record, low income status and homelessness and the establishment of adequate and enforceable remedies including compensation and reinstatement.
- legal provisions protecting people from racial and religious vilification.

## Infringements

### **The Federation supports:**

- an infringement enforcement system that is easy to use and understand, gives clear information about options to people who are fined and is non-discriminatory.
- emphasis on diversion at the earliest possible opportunity, before fines are issued, for vulnerable members of the community.
- a more flexible infringement and enforcement system that has the capacity to take into account personal and financial circumstances.
- the inclusion of hardship provisions within infringement systems to enable people experiencing financial stress to apply for fines to be reduced to a sum proportional to their income.
- enforceable guidelines for issuing and enforcement authorities that allow the exercise of discretion in relation to fines in circumstances where there was no intent to offend and the person is in a category of disadvantage.
- the option of unpaid community work as an alternative to the payment of fines.
- the Courts' full discretion after taking into account all relevant circumstances when considering the most appropriate sentence for all matters related to unpaid fines.
- the initiatives of the Magistrates' Court in relation to the payment of infringements and financial disadvantage.
- the establishment of an independent body to receive and investigate complaints in relation to the use of public transport and the conduct of enforcement agencies, with the power to make binding and enforceable decisions.
- opposition to the expansion of Victoria's infringement system to include more complex summary offences.

## Mental Health

### The Federation supports:

- increased adherence to both the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights* such that people with mental health problems have the right to the best quality, least aversive treatment and support possible and that every effort is made to avoid involuntary treatment.
- amendment of the *Mental Health Act 1986* (Vic) consistently with the United Nations Principles for the Protection of Persons with Mental Illness and Improvement of Mental Health Care, including by:
  - introducing timely review by the Mental Health Review Board, such that the 70% of involuntary patients not having hearings are reviewed;
  - ‘a right to independent fair and timely review of decisions to administer electroconvulsive therapy to people detained under Involuntary Treatment Orders’;
  - guaranteeing and resourcing legal representation for all involuntary patients coming before the Mental Health Review Board who wish to have it;
  - empowering the Mental Health Review Board to vary people’s treatment plans in appropriate cases;
  - establishing an accessible independent and adequately empowered complaints mechanism for people with psychiatric disability;
  - at a minimum, enabling people who have capacity to consent the right to refuse psychiatric treatment.
- introduction of enforceable advance directives or living wills to enable people with psychiatric disability to make decisions in advance about their treatment and personal affairs, which will be respected if and when they are deemed to have lost capacity.
- introduction of safe mental health services, including by the establishment of separate specialist services for women and girls.

## People with a Disability

### The Federation supports:

- the inclusion in the *Residential Tenancies Act 1997* (Vic) of provisions dealing with tenants in supported accommodation
- the removal of barriers to accessing justice for victims/survivors of sexual assault with cognitive impairment and/or complex communication needs.
- reforms to legal processes (both legislative and non-legislative) that increase access to justice for people with cognitive impairment and complex communication needs who are victims/survivors of sexual offences.
- establishment of accessible, independent and adequately empowered complaints processes for people with disabilities.
- the piloting and establishment of a 24 hour Advocacy service to assist sexual assault victim/survivors with a cognitive impairment through the legal system’s response.

## Policing

### The Federation supports:

- increased adherence to Article 9 of the *International Covenant on Civil and Political Rights* in relation to liberty, security and arrest.
- increased adherence to Article 16 of the *Convention Against Torture* in relation to acts of cruel, inhuman or degrading treatment or punishment committed by a public official.
- the establishment of an independent Criminal Justice Commission to receive, investigate and report on complaints concerning the police and corruption.
- the establishment of a Crimes Statistical Unit, independent of Police and Government, to monitor crime statistics, investigate prison demographics and the causes of crime, provide accurate statistical information to the community and to provide independent advice to government.

- the improvement of police responses to incidents and confrontations to reduce the number of fatal and other shootings in Victoria without resort to violence and the need for taser guns, capsicum spray and other such weaponry.
- the establishment of crisis support intervention to assist police to diffuse situations and make appropriate referral in situations where there are crisis mental health issues.
- the introduction of adequate safeguards to protect the community from arbitrary police searches and the overuse of search and strip-search powers.
- opposition to the use of sniffer dogs as a tool for police searches. Where police continue to use sniffer dogs, this power should be regulated by legislation and should not be permitted without police having a prior reasonable suspicion of an illegal substance.
- greater vigilance by Magistrates and Judges in relation to warrants for searches lacking a solid, evidentiary basis.
- limits on police powers to ensure they do not unnecessarily target vulnerable and disadvantaged members of our community.
- the demilitarisation of the Victorian police force and a return to a community policing model, that is responsive to the needs of disadvantaged and vulnerable communities, including people with a psychiatric disability.
- an end to the criminalisation of psychiatric disability, through measures including the appropriate diversion of offenders before they are charged, and an end to inappropriate and unsupported police responses to mental health situations.
- proper application of a defence of mental impairment and an end to the practice of pushing charges up from the Magistrates to the County Court to avoid the provisions of the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 (Vic)*.
- an acknowledgement of factors which a police officer cannot predict when deciding to initiate a car chase/pursuit.
- increased adherence to Article 21 of the *International Covenant on Civil and Political Rights* in relation to the right of peaceful assembly.
- police respect for free speech, freedom of movement and freedom of protest by not intervening to disperse public demonstrations.
- calls for police to employ methods of crowd control that cause no long-lasting or significant pain, and the holding of police accountable when they overstep this line.

## Prisons

### **The Federation supports:**

- increased adherence to Article 10 of the *International Covenant on Civil and Political Rights* in relation to the humanity and inherent dignity of all persons deprived of liberty.
- a permanent and ongoing Centre for the Human Rights of Imprisoned People in Victoria, to advocate on behalf of prisoners and provide them with legal assistance.
- the elimination of practices and procedures in Victorian prisons that discriminate against women on the basis of gender/sex, race, ethnicity, religion and cognitive impairment.
- increased resources for health, education and support services in prisons to ensure that prison provides an opportunity for rehabilitation and reintegration.
- the establishment of specialist forensic assessment, treatment and support units within all prisons for people with mental health and other cognitive disabilities.
- the reallocation of funds for new prisons in Victoria towards programs that address the causes of offending, including drug and alcohol abuse, health and mental health issues, poverty and other disadvantage.
- training for staff in correctional facilities to ensure that they are able to identify and manage “at risk” or vulnerable prisoners.
- a public review of government policy in relation to the management of vulnerable prisoners, including people with psychiatric disability.
- a moratorium on the expansion of the private prison network in Victoria.

- rigorous monitoring and probity checks by government of the management of private prisons and compliance with private prison contracts.
- the provision of more information to the public about private contracts and prison monitoring.
- increased resources for pre-release leave and post release programs that seek to break the cycle of offending, including accommodation, family reunification, pathways to employment and education and general and specific support programs.

## Public Space & Community Safety

### **The Federation supports:**

- the Declaration of the International Campaign Against Mass Surveillance (ICAM) which calls for governments around the world to abandon the intrusive and discriminatory measures inherent in the practice of mass registration and surveillance, and puts the genuine protection and development of citizens – in the fullest sense, including the protection of our rights – at the centre of any approach to “security”.
- crime deterrence or prevention initiatives in public places including better lighting, better and faster public transport and staffed transport waiting areas, such as at train stations and super-taxi stops.
- the establishment of additional meeting and activity centres for young people, as part of a range of safe recreational places available for young people
- opposition to expanded police powers to disperse people from public places.
- the provision of additional training to the security industry and venue owners and operators to ensure compliance with accepted standards of behaviour and treatment of the diversity of groups of venue users.
- additional regulation of the security industry and venue owners and operators to ensure adequate accountability measures for staff behaviour.
- the meaningful involvement of consumers, including young people and Aboriginal and Torres Strait Islander people, as well as stakeholders representing consumer groups, in the ongoing development of policies about the use of public space.

## Refugee & Immigration Law

### **The Federation supports:**

- increased adherence to International Refugee Conventions, including those relating to our system of determination.
- increased adherence to Article 9 of the *International Covenant on Civil and Political Rights* in relation to arbitrary detention.
- the end of mandatory detention of asylum seekers in Australia.
- calls for the conditions in detention centres to conform to basic human rights standards and moreover that they are appropriate to the social, educational, mental and physical health needs of detainees.
- the provision of proper social and financial assistance and services for asylum seekers, refugees and migrants
- universal access to independent quality legal advice and access to genuine merits review by the Refugee Review Tribunal and to judicial review by the courts for all asylum seekers regardless of their mode of arrival into Australia.
- expansion of Australia’s family migration program and the abolition of restrictions that result in hardship, disadvantage and discrimination.
- reforms designed to improve the legal knowledge and ethical standards of migration agents, provided that such reforms do not interfere with agents’ professional capacity.
- opposition to legislative schemes which sanction migration agents according to “high visa refusal rates”.

- the federal government giving all persons who enter Australia's territorial waters the opportunity to apply for asylum under Australian law.

## Social Security

### **The Federation supports:**

- adherence to Article 9 of the *International Covenant on Economic, Social and Cultural Rights* in relation to the right to social security and social insurance.
- legislative enshrinement of the fundamental right to adequate social security for all people of working age in Australia.
- calls for the rights of homeless people to be addressed to ensure that their living condition does not disqualify them from receiving social security payments.
- the removal of compulsory activity or participation requirements for people in receipt of social security payments, in favour of positive alternative approaches on a voluntary basis based on increased investment in the provision of opportunities and assistance for retraining, education packages and wage subsidy packages.
- the removal of financial or other penalties for breaches of participation requirements.
- the rationalisation and simplification of the system of concessions to better meet the needs of people on workforce age payments. This should include the extension of a range of concessions such as transport, utilities and Telephone Allowance, to allowees and other social security recipients currently eligible for only a limited range of concessions.
- calls for Centrelink to be provided with the additional staffing and other resources necessary for it to administer the social security system in the individualised and personal manner that is fundamental to the integrity of the system.
- calls for a review of the effects of differential rates of social security payment based on marital status under the *Social Security Act 1991* (Cth), with the view to ensuring that adequate assistance is provided to people in all circumstances.
- the removal of barriers to accessing government health and welfare benefits for people who may not have access to identifying documentation, such as homeless persons and children under 18.
- an increase in real income for NewStart Allowance recipients and a decreased gap between the rates of NewStart and pensions payments.
- a policy on NewStart and other social security payments that aims to alleviate poverty and allow people to adequately prepare to re-enter the workforce, including by affording: stable rental accommodation and associated bills; healthcare; appropriate workforce attire; and public transport expenses.
- the abolition of compulsory Income Management.
- the abolition of retrospective laws impacting current and previous social security recipients, including section 66A of the *Social Security (Administration) Act 1999* (Cth).

## Victims of Crime

### **The Federation supports:**

- reforms to legal processes and practices to overcome the re-victimisation suffered by victims/survivors of violent crimes and particularly victims of sexual offences seeking access to justice.
- the existence of a well-resourced statutory Victims of Crime Assistance Scheme and a well-resourced Victims Support Agency that meet the needs of victims of crime and are accessible to victims of crime from diverse backgrounds. Victims of crime are entitled to receive appropriate levels of financial compensation from government that truly reflect the pain and suffering the victim has experienced as a result of the crime.
- calls for any Victims of Crime Register to be formulated so as to ensure the protection of the victim without imposing a punitive monitoring system on all prisoners across the board.
- the establishment of a non-adversarial compensation scheme for survivors of abuse and neglect in institutions and out of home care.